

ALAN L. FRANK ♦*+
KYLE M. KULZER*+
SAMANTHA A. MILLROOD*+
EVAN L. FRANK *+♠Δ
JORDAN E. FRANK *+
JACLYN H. FRANK *+♠
PATRICK W. BROWN *■+
SERGIY MELNYK*

PARALEGALS
DEBRA E. MCGUCKIN
DEE A. WILK
DAWN M. WELSH

♦ Certified by the NJ Supreme Court
as a Civil Trial Attorney
* MEMBER PA BAR
+ MEMBER NJ BAR
° MEMBER NY BAR
♠ MEMBER FL BAR
■ MEMBER DC BAR
Δ REGISTERED PATENT ATTORNEY

ALAN L. FRANK
LAW ASSOCIATES, P.C.
Attorneys at Law

135 OLD YORK ROAD
JENKINTOWN, PA 19046
(215) 935-1000
FAX NO. (215) 935-1110

NEW JERSEY OFFICE

1103 LAUREL OAK ROAD
SUITE 140
VOORHEES, NJ 08043

E-MAIL ADDRESS:
afrank@alflaw.net

August 29, 2023

Via ECF

Honorable Paul G. Gardephe
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

**Re: Johnson v. Esports Entertainment Group – 1:22-cv-10861 – Proposed motion
for summary judgment.**

Dear Judge Gardephe:

On June 13, 2023 Plaintiff filed a pre-motion letter regarding a motion to dismiss Defendant's counterclaims under Rule 12(b)(6). ECF 35. On June 16, Defendant responded. ECF 37. However, the Court never set a pre-motion conference. On August 9, 2023, Plaintiff filed a pre-motion letter regarding a motion for partial summary judgment. ECF 61.

On August 23, 2023, the parties had a status conference before Magistrate Judge Parker. Judge Parker pointed out that discovery was ending and Plaintiff's proposed 12(b)(6) motion – which would ordinarily come before a Rule 56 motion – would end up being filed around the same time as Plaintiff's Rule 56 motion. Judge Parker suggested that Plaintiff forego the 12(b)(6) motion and instead file a single Rule 56 motion addressing the issues that would have been raised in both the 12(b)(6) motion (ECF 35) and the Rule 56 motion (ECF 61).

Plaintiff agreed to do so. Judge Parker directed Plaintiff (ECF 78) to file a letter to Your Honor indicating our intent to consolidate the two motions. Plaintiff hereby does so and notifies the Court that if permitted, following a pre-motion conference, Plaintiff will move for partial summary judgment and make the arguments set out in both ECF 35 and ECF 61.

Respectfully,

/s/ Alan L. Frank
Alan L. Frank